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REMARKS

Claims 1-39 are pending in this application. Claims 1, 4, 8, 20, 26, 28-30, 32, and 34 are amended. Reconsideration in view of the following remarks is respectfully requested.

The Office Action rejects, under 35 U.S.C. § 112, second paragraph, claims 4, 8, 28-29, 32, and 34, as being indefinite. The Office Action alleges the phrase "channel type" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. The Office Action then notes for the process of examination, the phrase "channel type" would be interpreted as "channel." This rejection is respectfully traversed.

Applicant asserts claims 4, 8, 28-29, 32, and 34 are amended according to the Office Action's suggestion to obviate the rejection. Accordingly, Applicant requests the withdrawal of the rejection under 35 U.S.C. § 112.

The Office Action rejects, under 35 U.S.C. § 102, claims 1-8, 11-18, and 20-39 over Crockett et al. (U.S. Patent No. 6,781,963). The Office Action also rejects, under 35 U.S.C. § 103, claims 9-10 and 19 over Crockett et al. and Dailey (U.S. Patent No. 6,449,491). These rejections are respectfully traversed.

Applicants assert that Crockett et al. does not disclose or suggest determining a push-to-talk metric that is a function of multiple instances of push-to-talk usage, as recited in independent claim 1, and similarly recited in independent claims 20, 26, and 30.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference" (MPEP §2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

Crockett et al. discloses a method in a communication device for terminating a member from a group call in a group communication network (col. 2, lines 24-29). There is no disclosure of determining a push-to-talk metric that is a function of multiple instances of push-to-talk usage. Crockett et al. only discloses using latency as a metric for itself. Furthermore, Crockett et al. only discloses the latency is only related to a single push-to-talk usage (col. 1, lines 44-48). Additionally, Crockett et al. does not selecting a push-to-talk session unavailability mitigation based on such a push-to-talk metric that is a function of multiple instances of push-to-talk usage.

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Thus, Crockett et al. does not disclose or suggest determining a push-to-talk metric that is a function of multiple instances of push-to-talk usage, as recited in independent claim 1, and similarly recited in independent claims 20, 26, and 30

Therefore, Applicants respectfully submit that independent claims 1, 20, 26, and 30 define patentable subject matter. The remaining claims depend from the independent claims and therefore also define patentable subject matter. Accordingly, Applicants respectfully request the withdrawal of the rejections under 35 U.S.C. § 102 and 35 U.S.C. § 103.

CONCLUSION

Based on the foregoing amendments and remarks, Applicants respectfully submit this application is in condition for allowance. Favorable consideration and prompt allowance of claims 1-39 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

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The Commissioner is hereby authorized to deduct any fees arising as a result of this Amendment or any other communication from or to credit any overpayments to Deposit Account No. 50-2117.

Respectfully submitted,



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